

Lisa Bittle Tancredi, Esq. (admitted *pro hac vice*)

Email: lisa.tancredi@wbd-us.com

Robert L. Hockenbury, Esq. (VA Bar 97675)

Email: robert.hockenbury@wbd-us.com

100 Light Street, 26th Floor

Baltimore, MD 21202

Telephone: (410) 545-5800

Facsimile: (410) 545-5801

Counsel to Shore United Bank, N.A.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(ALEXANDRIA)**

In re:

*

Eagle Properties and Investments, LLC, *

Case No.: 23-10566 (KHK)

Debtor.

*

Chapter 7

* * * * *

**RESERVATION OF RIGHTS IN RESPONSE TO CHAPTER 7
TRUSTEE'S MOTION TO AUTHORIZE PAYMENT OF DEPOSIT
FUNDS TO GUS GOLDSMITH PURSUANT TO 11 U.S.C. § 363 [Dkt. No. 515]**

Shore United Bank, N.A., successor in interest to Community Bank of the Chesapeake ("Shore United"), by its undersigned counsel, file this Reservation of Rights in response to the *Chapter 7 Trustee's Motion to Authorize Payment of Deposit Funds to Gus Goldsmith Pursuant to 11 U.S.C. § 363* [Dkt. No. 515] ("Motion") filed by the chapter 7 trustee after the court-authorized sale of 1010 Lynn Street SW, Vienna, Virginia failed to close. In support of this Reservation of Rights, Shore United respectfully states:

1. As described more fully in the *Motion of Shore United Bank, N.A. for Relief from the Automatic Stay as to Real Property Known as 1010 Lynn Street SW, Vienna, Virginia* [Dkt. No. 318], Shore United has a first-priority lien on the 1010 Lynn Street property pursuant to that certain Line of Credit Agreement and Note dated August 10, 2016, and modified on October 24, 2018.

2. Gus Goldsmith has a lien on the 1010 Lynn Street property that is subordinate to Shore United's interest. *See* Claim 3-1.

3. On April 6, 2023 (the "Petition Date"), Eagle Properties and Investments LLC (the "Debtor") filed a voluntary petition for relief under chapter 11, title 11 of the United States Code (the "Bankruptcy Code").

4. On March 21, 2024, the Court entered an Order of Conversion of Chapter 11 to Chapter 7 [Dkt. No. 359] converting this case to chapter 7. H. Jason Gold was appointed chapter 7 trustee ("Trustee"). *See* Docket Notation [Dkt. No. 360].

5. The Trustee filed his *Motion to Approve Sale of 1010 Lynn St., SW, Vienna, VA Free and Clear of Liens, Claims and Interests Pursuant to 11 U.S.C. § 363(f)* [Dkt. No. 414] ("Sale Motion") on April 25, 2024.

6. Gus Goldsmith filed Responses [Dkt. Nos. 437, 447] to the Sale Motion and consented to the motion subject to terms: namely that he be paid in full from the proceeds of the sale of the 1010 Lynn Street property and another property to be sold contemporaneously.

7. Shore United likewise responded [Dkt. No. 437] to the Sale Motion and conditionally consented to the sale. Shore United specifically reserved all its rights under the *Consent Order Resolving Motion of Shore United Bank, N.A. for Relief from the Automatic Stay as to Real Property Known as 1010 Lynn Street SW, Vienna, Virginia* [Dkt. No. 331] which granted Shore United relief from the automatic stay to exercise all its rights and remedies as to the 1010 Lynn Street property.¹

¹ By its express terms, the order granting Shore United relief from the automatic stay "shall be binding upon the Debtor and its successors and assigns, including but not limited to any trustee or examiner that may be appointed in this case."

8. The Court entered an *Order Approving Sale of 1010 Lynn St., SW, Vienna, VA Free and Clear of Liens, Claims and Interests Pursuant to 11 U.S.C. § 363(f)* [Dkt. No. 472] on May 23, 2024. The sale of the 1010 Lynn Street property did not close as planned.

9. In the Motion currently before the Court, the Trustee seeks authority to disburse the \$10,000 earnest money deposit to Gus Goldsmith instead of Shore United. Shore United avers that, by virtue of its first-priority lien and the relief granted Shore United from the automatic stay, it has an interest superior to Gus Goldsmith's interest in the \$10,000 earnest money deposit.

10. Shore United does not consent to the payment of the earnest money deposit to Gus Goldsmith but without waiver does not object to the relief sought in the Motion, based on the report by Trustee's counsel that discussions are ongoing with potential purchasers for the 1010 Lynn Street property.

11. Shore United reserves any and all rights to future earnest money deposits, proceeds in any way related to the 1010 Lynn Street property, and its rights and remedies under any loan documents and the Court's order granting Shore United relief from the automatic stay.

Dated: July 1, 2024
Baltimore, Maryland

WOMBLE BOND DICKINSON (US) LLP

/s/ Lisa Bittle Tancredi

Lisa Bittle Tancredi, Esq. (admitted *pro hac vice*)

Email: lisa.tancredi@wbd-us.com

Robert L. Hockenbury, Esq. (VA Bar 97675)

Email: robert.hockenbury@wbd-us.com

100 Light Street, 26th Floor

Baltimore, MD 21202

Telephone: (410) 545-5800

Facsimile: (410) 545-5801

Counsel to Shore United Bank, N.A.

CERTIFICATE OF SERVICE

I hereby certify that on July 1, 2024, a true and correct copy of the foregoing *Reservation of Rights in Response to Trustee's Motion to Authorize Payment of Deposit Funds to Gus Goldsmith Pursuant to 11 U.S.C. § 363* was filed via the Court's CM/ECF system and served on all parties receiving notice via the CM/ECF system who have filed a notice of appearance in this matter and mailed first-class, postage prepaid to:

Bala Jain LLC
6007 Marilyn Drive
Alexandria, VA 22310

Country of Fairfax
Department of Tax Administration
Revenue Collection Division
1200 Government Century Parkway
Suite 223
Fairfax, VA 22035

City of Richmond
Division of Collections
PO Box 2650
Richmond, VA 23261

Howard County
Department of Finance
Property Tax Division
3430 Court House Drive
Ellicott City, MD 21043

Dauphin County
Office of Tax Claims Bureau
Dauphin County Administration Building
2 South Second Street
Harrisburg, PA 17108

Office of the United States Trustee
c/o Michael Freeman, AUST
1725 Duke Street, Suite 650
Alexandria, VA 22314

/s/ Robert L. Hockenbury
Robert L. Hockenbury, Esq.